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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,325	11/30/2001	Sawako Usuki	YAO-4349US	9915

7590 08/13/2004

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EXAMINER

HARVEY, DIONNE

ART UNIT PAPER NUMBER

2643

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/980,325	Applicant(s) USUKI ET AL.	
	Examiner Dionne N Harvey	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1,4-9 and 11-14 is/are allowed.
- 6) ☐ Claim(s) 2,3,10,17,18 and 30-43 is/are rejected.
- 7) ☐ Claim(s) 15,16,19-24 and 26-29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/30/2001</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

Figures 12A, 12B and 13, should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 15-29 are objected to because of the following informalities: The Examiner is unclear as to whether it is the Applicant's intention to submit claims 15-29 in independent or dependent form. As written, each of the claims 15-29, have been treated as independent claims, the limitations of each claim including all the limitations of the claim(s) on which it depends.

Claims 30-43 are objected to because of the following informalities: As written, each of the claims 30-43, have been treated as dependent claims

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2,3,10,17,18,25 and 30-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 2 and 17, According to the figures provided and the Applicant's written disclosure, the first diaphragm has but one opening. Therefore, the claimed recitation of "the first diaphragm has a second opening..." is misdescriptive.

Regarding claims 3 and 18, the recitation "is level with or higher than" is indefinite and must be corrected.

Regarding claims 10 and 25, It is not clear how cover (13) is constructed integral with the first diaphragm (1) as called for in claims 10 and 25.

Regarding claims 30-43, The Examiner is unclear as to whether claims 30-43 are drawn to "an electromagnetic transducer" or "a portable communication device". The preamble of each of the claims 30-43 recite "a portable communication device according to...". However, the claims 30-43 are dependent upon a claim(s), which fails to recite a "portable communication device".

Allowable Subject Matter

2. Claims 1, 4-9 and 11-14 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Andou (U.S. 6,600,400) teaches an electromagnetic transducer.

Usuki (U.S. 6,671,383) teaches an electromagnetic transducer.

Usuki (U.S. 6,671,383) teaches an electromagnetic transducer.

Peter (U.S. 5,218,337) teaches a tone generator and circuit structure.

Beltran (U.S. 6,449,376) teaches a planar type loudspeaker.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N Harvey whose telephone number is 703-305-1111. The examiner can normally be reached on 9-6:30 M-F and alternating Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dionne Harvey


CURTIS KUNZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600